IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
ORIGINAL JURISDICTION

Dated: Nainital: the 11th day of December, 2007
Criminal Bail Application No.1369 of 2007
Order on the Bail application of accused.
CRIMINAL SIDE
Deep Chandra, S/o Sri Bala Datt, R/o Village-Dungra (Manya) Patwari Kshetra Bhanoli, Tehsil Bhanoli, District Almora.
....Applicant(In Jail)

Versus

State of Uttarakhand .....Opposite Party

Arising out of Case Crime No.02 of 2007
Under Sections 307/323/504 I.P.C.,
Patwari Kshetra Bhanoli, District Almora.

Hon'ble Dharam Veer, J.

Heard Sri K.C. Tiwari, learned counsel for the applicant and Sri Harish Pujari, learned Addl. Government Advocate for the State.

In brief the prosecution case is that on 11.11.2007 at 5:00 A.M. the complainant was going to Bhanoli Parao for booking a seat for Delhi for his cousin. As soon as the complainant reached near the shop of accused Baladutt, then the applicant along with co-accused namely Baladutt, Girish Chandra and Ghanshyam asked the complainant about his father and when he did not give any answer, then the applicant along with co-accused persons started to beat him with lathis and also abused him. Then the complainant ran away from the spot and narrated the whole incident to his father Prakash Chandra. Thereafter, he himself and his father came back at Bhanoli Parao to see the bus and the complainant saw that applicant was armed with *khukhri* in his hand, co-accused Ghanshyam was armed with a *lathi* in his hand and co-accused Baladutt was armed with a brick. When the father of the complainant Deep Chandra inquired the reason from the accused persons for beating his son, then the applicant Deep Chandra with the intention to kill, caused injury to Prakash Chandra with *Khukhri* and accused Ghanshyam caused injury by lathi and accused Baladutt caused injury by brick to the father of complainant. With the same

averments, the F.I.R. was lodged on 11.11.2007 at 08:00 A.M. at Patwari Circle Bhanoli, District Almora, by Sri Girish Chandra. After the said incident, the injured Prakash Chandra was medically examined on 11.11.2007 at 10:45 A.M. by doctor A.K. Joshi. The doctor found following injuries on the person of Prakash Chandra.

1. *Incised wound size 05 cm x 0.5 cm. muscle deep over scalp obliquely placed directed from right to left across midline 13 cm. from mid eyebrow point (Glabella) fresh bleeding present.*
2. *Incised wound size 4.5 cm. x 0.5 cm. over scalp 04 cm. left to the injury no.1. Fresh bleeding present. The wound is muscle deep.*
3. *Patient complaining of pain over waist. O/E tenderness present. No injury externally seen.*

The doctor also opined that injury nos. 1 & 2 were caused by sharp object.

The injury report shows that there are two injuries on the person of Prakash Chandra and it was averted in the FIR that the injuries were caused by Khukhri by the present applicant and Khukhri is a sharp edged weapon and incised wound is on the vital part i.e. on the head. The applicant has been assigned the specific role in the present case and he has caused the injuries by khukhri on the head i.e. on the vital part of injured. In this way, the averments made in the FIR are also corroborated by the injury report.

After considering all the facts and circumstances and particularly considering the fact that the applicant has been assigned the main role, I think that it is not a fit case in which the applicant deserves bail at this stage.

Hence, the bail application is hereby rejected.

(Dharam Veer, J.)

December 11, 2007
Rajeev Dang